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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Equal Employment Opportunity  
Commission,

Plaintiff,

vs.

CTI, Inc., an Arizona corporation,

Defendant.

**COMPLAINT**

**NATURE OF THE ACTION**

This is an action under Title I of the Americans with Disabilities Act of 1990 as amended by the ADA Amendments Act of 2008 and Title I of the Civil Rights Act of 1991 against Defendant CTI, Inc., to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Elizabeth Barr, Myron Pruett, and other aggrieved individuals. As stated with greater particularity below, the Equal Employment Opportunity Commission alleges that Defendant CTI engaged in unlawful conduct when it failed to accommodate and terminated qualified employees with

1 disabilities. Specifically, the EEOC alleges that Defendant CTI maintained and  
2 administered two policies or practices in a way that denied employment opportunities to  
3 people with disabilities. First, Defendant CTI utilized a “no medical restriction” policy  
4 or practice that prohibited employees from working if they have any medical restriction.  
5 Second, Defendant CTI utilized a maximum leave policy that required employees be  
6 terminated if they are unable return to “full, unrestricted duty” after twelve weeks of  
7 leave. The EEOC alleges that Defendant CTI discriminated against Ms. Barr, Mr.  
8 Pruet, and other aggrieved individuals with disabilities by failing to make reasonable  
9 accommodation to the known physical or mental limitations of these otherwise qualified  
10 individuals with disabilities and terminating their employment because of their  
11 disabilities and/or because they needed reasonable accommodation. Upon information  
12 and belief, the EEOC alleges that Defendant CTI continues to engage in these  
13 discriminatory practices.

### 14 **JURISDICTION AND VENUE**

15 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331,  
16 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a)  
17 of the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. § 12117(a), which  
18 incorporates by reference 42 U.S.C. Section 706(f)(1), (3) of Title VII of the Civil  
19 Rights Act of 1964 (“Title VII”), 42 U.S.C. §2000e-5(f)(1), (3), and pursuant to Section  
20 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981A.

21 2. The employment practices alleged to be unlawful were and are being  
22 committed within the jurisdiction of the United States District Court for the District of  
23

1 Arizona.

2 **PARTIES**

3 3. Plaintiff, the Equal Employment Opportunity Commission (“EEOC”), is  
4 the agency of the United States of America charged with the administration,  
5 interpretation, and enforcement of Title I of the ADA and is expressly authorized to  
6 bring this action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which  
7 incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-  
8 5(f)(1), and (3).  
9

10  
11 4. At all relevant times, Defendant CTI, Inc., an Arizona corporation, has  
12 continuously been and is now doing business in the State of Arizona and has  
13 continuously had at least fifteen (15) employees.  
14

15 5. At all relevant times, Defendant CTI has continuously been an employer  
16 engaged in an industry affecting commerce under Section 101(5) of the ADA, 42  
17 U.S.C. § 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which  
18 incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g)  
19 and (h).  
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21  
22 6. At all relevant times, Defendant CTI has been a covered entity under  
23 Section 101(2) of the ADA, 42 U.S.C. § 12111(2).  
24

25 **GENERAL ALLEGATIONS**

26 **I. Conditions Precedent**

27 7. More than thirty days prior to the institution of this lawsuit, Elizabeth Barr  
28 filed a charge of discrimination with the EEOC alleging violations of Title I of the ADA

1 by Defendant CTI.

2 8. The EEOC provided Defendant CTI with notice of the charge of  
3 discrimination.

4 9. The EEOC investigated the charge of discrimination.

5 10. Based on evidence obtained during the investigation, the EEOC issued a  
6 determination finding reasonable cause to believe that Defendant CTI engaged in certain  
7 unlawful employment practices identified in the determination.  
8

9 11. The EEOC's determination included an invitation for Defendant CTI to  
10 join the Commission in informal methods of conciliation in an attempt to eliminate the  
11 alleged unlawful employment practices.  
12

13 12. Defendant CTI agreed to participate with the EEOC in this informal  
14 conciliation process.  
15

16 13. The EEOC and Defendant CTI were unable to reach an agreement through  
17 the conciliation process.  
18

19 14. The EEOC sent notice to the Defendant CTI that conciliation efforts had  
20 failed.  
21

22 15. All conditions precedent to the institution of this lawsuit have been  
23 fulfilled.  
24

## 25 **II. Defendant CTI, Inc.**

26 16. Since at least November 2009, Defendant CTI has engaged in unlawful  
27 employment practices in violation of § 102 of Title I of the ADA, 42 U.S.C. § 12112.

28 17. Defendant CTI is a regional company with locations in Arizona, California,

1 New Mexico, and Texas.

2 18. Defendant CTI is a truck transporter of bulk commodities, including  
3 cement, lime, and flyash.

4 19. Defendant CTI is headquartered in Rillito, Arizona.

5  
6 **III. Defendant CTI's "No Medical Restrictions" Policy**

7 20. At all relevant times, Defendant CTI instituted and/or maintained a policy  
8 or practice that prohibits employees with medical restrictions from working ("no  
9 medical restrictions" policy).

10 21. Under its "no medical restrictions" policy, Defendant CTI will not allow  
11 employees with disabilities to work if they have medical restrictions, regardless of  
12 whether there are reasonable accommodations to the employees' physical or mental  
13 limitations.

14 22. Under its "no medical restrictions" policy, Defendant CTI does not initiate  
15 an interactive process with employees with disabilities to identify the precise limitations  
16 resulting from their disabilities and potential reasonable accommodations that could  
17 overcome those limitations.

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21 **IV. Defendant CTI's Twelve (12) Week Maximum Leave Policy**

22 23. At all relevant times, Defendant CTI instituted and/or maintained a policy  
23 or practice which allows disabled employees with medical restrictions to take leave of  
24 absence of up to, but no longer than, twelve (12) weeks (maximum leave policy).

25 24. The way Defendant CTI administers this policy is to discharge disabled  
26 employees who are unable to return to full, unrestricted duty after twelve (12) weeks of  
27  
28

1 medical-related leave.

2 25. Under CTI's maximum-leave policy, as administered, before discharging  
3 employees with disabilities, Defendant CTI does not initiate an interactive process to  
4 identify the precise limitations resulting from their disabilities and potential reasonable  
5 accommodations that could overcome those limitations.  
6

7 **V. Charging Party Elizabeth Barr**

8 26. Defendant CTI hired Ms. Barr in November 2002.  
9

10 27. Ms. Barr worked for CTI as a payroll and billing clerk.

11 28. Ms. Barr satisfactorily performed the essential functions of her job during  
12 the time that she worked for Defendant CTI.  
13

14 29. In May 2010, Ms. Barr was diagnosed with a rare eye disease called Fuchs  
15 endothelial dystrophy.  
16

17 30. As a result of her eye disease, Ms. Barr's vision substantially deteriorated.

18 31. As a result of her eye disease, Ms. Barr had to undergo cataract surgery and  
19 corneal transplant surgery on both eyes.  
20

21 32. Ms. Barr's eye disease substantially limits, at a minimum, the major life  
22 activities of seeing, reading, and performing manual tasks.

23 33. Ms. Barr's eye disease also substantially limits the operation of a major  
24 bodily function, such as special sense organs and/or normal cell growth,  
25

26 34. At all relevant times, Ms. Barr was a qualified individual with a disability  
27 as defined by the ADA.

28 35. In May 2010, Ms. Barr notified Defendant CTI of her medical condition

1 and requested leave under the Family Medical Leave Act (FMLA), 29 U.S.C. § 2601 *et*  
2 *seq.*

3 36. The FMLA entitles eligible employees of covered employers to up to  
4 twelve (12) weeks of job-protected, unpaid leave during any 12-month period for care of  
5 the employee's own serious health condition.  
6

7 37. On or about May 18, 2010, Defendant CTI received an FMLA certification  
8 form from the Pima Eye Institute indicating that Ms. Barr needed corneal transplant  
9 operations.  
10

11 38. Defendant CTI placed Ms. Barr on FMLA leave with an effective date of  
12 May 10, 2010.  
13

14 39. On or about July 20, 2010, Defendant CTI sent a letter to Ms. Barr  
15 explaining that her FMLA leave would be exhausted on August 2, 2010.  
16

17 40. The letter stated, in part, "Should you not be released to full, unrestricted  
18 duty on or before August 2, 2010, your employment and health benefits may be  
19 terminated."  
20

21 41. Ms. Barr asked Defendant CTI to keep her job open.  
22

23 42. Ms. Barr asked Defendant CTI to extend her leave.  
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25 43. Defendant CTI denied Ms. Barr's requests to keep her job open and/or to  
26 extend her leave.  
27

28 44. Defendant CTI did not initiate or engage with Ms. Barr in any interactive  
process to identify the precise limitations resulting from her disability and potential  
accommodations that could overcome those limitations.

1           45. Defendant CTI did not propose or offer any potential reasonable  
2 accommodations to Ms. Barr's physical limitations.

3           46. The reasonable accommodations proposed by Ms. Barr would not have  
4 imposed an undue hardship on the operation of Defendant CTI's business.  
5

6           47. On or about August 2, 2010, Defendant CTI sent a letter to Ms. Barr  
7 terminating her employment.

8           48. The discharge letter stated, "While we are disappointed that you have not  
9 been released to full, unrestricted duty, we certainly wish you the best in your  
10 endeavors."  
11

12           49. Defendant CTI discharged Ms. Barr on August 2, 2010.  
13

14           50. After Defendant CTI discharged Ms. Barr, she maintained her health  
15 insurance by paying her premiums out-of-pocket.

16           51. Defendant CTI discharged Ms. Barr because of her disability and/or  
17 because she needed a reasonable accommodation to her physical limitations.  
18

19           52. The policies and practices complained of in the paragraphs deprived Ms.  
20 Barr of equal employment opportunities and otherwise adversely affected her status as  
21 an employee because of her disability.  
22

23 **VI. Aggrieved Individual Myron Pruett**

24           53. Defendant CTI hired Myron Pruett in October 2002.  
25

26           54. Mr. Pruett worked for CTI as a Driver.

27           55. Mr. Pruett satisfactorily performed the essential functions of his job during  
28 the time he worked for Defendant CTI.



1           56. In March 2010, Mr. Pruett was hospitalized with severe hypoxia,  
2 pneumonia, and respiratory failure.

3           57. Mr. Pruett's respiratory conditions substantially limited, at a minimum, the  
4 major life activities of breathing, performing manual tasks, lifting, and walking.

5           58. Mr. Pruett's respiratory conditions substantially limit the operation of a  
6 major bodily function, such as respiratory function.

7           59. Since at least March 2010, Mr. Pruett was a qualified individual with a  
8 disability as defined by the ADA.

9           60. On April 30, 2010, Mr. Pruett notified Defendant CTI that he needed to  
10 take FMLA leave due to his serious health condition.

11           61. Defendant CTI placed Mr. Pruett on FMLA leave effective April 30, 2010.

12           62. Defendant CTI instructed Mr. Pruett that he needed to be released to full,  
13 unrestricted duty at the conclusion of his FMLA leave.

14           63. In or about July 2010, Mr. Pruett requested transfer to a position in  
15 Defendant CTI's safety department.

16           64. In or about July 2010, there were positions available in Defendant CTI's  
17 safety department that Mr. Pruett could have performed with or without a reasonable  
18 accommodation and for which he was qualified.

19           65. Defendant CTI denied Mr. Pruett's request for transfer to an available  
20 position in the safety department.

21           66. Defendant CTI did not initiate or engage with Mr. Pruett in any interactive  
22 process to identify the precise limitations resulting from his disability and potential  
23

1 accommodations that could overcome those limitations.

2 67. Defendant CTI did not propose or offer any potential reasonable  
3 accommodations to Mr. Pruett's physical limitations.

4 68. The reasonable accommodation proposed by Mr. Pruett would not have  
5 imposed an undue hardship on the operation of Defendant CTI's business.

6 69. On or about August 16, 2010, Defendant CTI sent a letter to Mr. Pruett  
7 terminating his employment.

8 70. The discharge letter stated, "While we are disappointed that you have not  
9 been released to full, unrestricted duty, we certainly wish you the best in your  
10 endeavors."

11 71. Defendant CTI discharged Mr. Pruett on August 16, 2010.

12 72. Defendant CTI discharged Mr. Pruett because of his disability and/or  
13 because he needed a reasonable accommodation to his physical limitations.

14 73. The e policies and practices complained of in the paragraphs above  
15 deprived Mr. Pruett of equal employment opportunities and otherwise adversely affected  
16 his status as an employee because of his disability.

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21 **VII. Other Aggrieved Individuals**

22 74. Following its "no medical restrictions" policy, Defendant CTI has refused  
23 to allow employees to work with disability-related medical restrictions.

24 75. Following its "no medical restrictions" policy, Defendant CTI has refused  
25 to make reasonable accommodation to the known physical and mental limitations of  
26 otherwise qualified individuals with disabilities.  
27  
28

1           76. Following its “no medical restrictions” policy Defendant CTI has  
2 discharged additional employees with disabilities who, with or without reasonable  
3 accommodation, could perform the essential functions of their jobs or other available  
4 positions.

5  
6           77. Defendant CTI refused to extend medical leave beyond the twelve (12)  
7 weeks required by the FMLA, even when extended leave would have reasonably  
8 accommodated the disability-related physical or mental limitations of qualified  
9 employees with disabilities.

10  
11           78. Following its “no medical restrictions” policy Defendant CTI discharged  
12 qualified employees with disabilities because of their disabilities and/or because they  
13 needed reasonable accommodation of their known physical or mental limitations.

14  
15           79. Following its “no medical restrictions” policy Defendant CTI has failed to  
16 make reasonable accommodation to the known physical and mental limitations of  
17 qualified employees with disabilities.

18  
19           80. The policies and practices complained of in the paragraphs above deprive  
20 qualified individuals with disabilities of equal employment opportunities and otherwise  
21 adversely affect their status as employees because of their disabilities.

22  
23           81. The unlawful employment practices complained of in the foregoing  
24 paragraphs are continuous and ongoing.

25  
26                           **FIRST CLAIM FOR RELIEF**  
27                           **Failure to Provide Reasonable Accommodation**  
28                           **42 U.S.C. §§ 12112(a) and (b)(5)(A)**

82. EEOC reasserts and incorporates by reference all of the foregoing

1 allegations.

2 83. Elizabeth Barr is a qualified individual with a disability.

3 84. Myron Pruett is a qualified individual with a disability.

4 85. Defendant CTI failed to make reasonable accommodation to the physical  
5 and mental limitations of Ms. Barr, Mr. Pruett, and other qualified employees with  
6 disabilities.

7 86. Defendant CTI failed to initiate or engage with Ms. Barr, Mr. Pruett, or  
8 other qualified employees with disabilities to identify the precise limitations resulting  
9 from their disabilities and potential accommodations that could overcome those  
10 limitations.

11 87. The policies and practices complained of in the paragraphs above deprive a  
12 group of aggrieved individuals of equal employment opportunities and otherwise  
13 adversely affect their status as employees because of their disabilities.

14 88. The unlawful employment practices complained of in the foregoing were  
15 and are intentional.

16 89. The unlawful employment practices complained of in the foregoing  
17 paragraphs were and are done with malice or with reckless indifference to the federally  
18 protected rights of Ms. Barr, Mr. Pruett, and other aggrieved individuals.

19 90. The unlawful employment practices complained of in the foregoing  
20 paragraphs are continuous and ongoing.

21 **SECOND CLAIM FOR RELIEF**

22 **Discriminatory Discharge**

23 **42 U.S.C. §§ 12112(a) and (b)(5)(B)**

1           91. EEOC reasserts and incorporates by reference all of the foregoing  
2 allegations.  
3

4           92. Elizabeth Barr is a qualified individual with a disability.

5           93. Myron Pruett is a qualified individual with a disability.

6           94. Defendant CTI terminated Ms. Barr, Mr. Pruett, and other qualified  
7 employees with disabilities because of their disabilities and/or because they had physical  
8 or mental limitations requiring reasonable accommodation.  
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10           95. The policies and practices complained of in the paragraphs above deprive a  
11 group of aggrieved individuals of equal employment opportunities and otherwise  
12 adversely affect their status as employees because of their disabilities.  
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14           96. The unlawful employment practices complained of in the foregoing  
15 paragraphs were and are intentional.  
16

17           97. The unlawful employment practices complained of in the foregoing  
18 paragraphs were and are done with malice or with reckless indifference to the federally  
19 protected rights of Ms. Barr, Mr. Pruett, and the other aggrieved individuals.  
20

21           98. The unlawful employment practices complained of in the foregoing  
22 paragraphs are continuous and ongoing.  
23

24                           **THIRD CLAIM FOR RELIEF**  
25                           **Use of Discriminatory Qualification Standards**  
26                           **42 U.S.C. §§ 12112(a) and (b)(6)**

27           99. EEOC reasserts and incorporates by reference all of the foregoing  
28 allegations.



1 disabilities who have exhausted FMLA leave or have no FMLA leave, are terminated  
2 unless they are able to work “full, unrestricted duty.”

3 108. Defendant CTI’s “no medical restrictions” policy has an adverse impact on  
4 individuals with disabilities.

5  
6 109. Defendant CTI’s “no medical restrictions” policy is a standard, criteria, or  
7 method of administration that has the effect of discrimination on the basis of disability.

8  
9 110. The effect of the policies and practices complained of in the foregoing  
10 paragraphs has been to deprive a group of aggrieved individuals of equal employment  
11 opportunities and otherwise adversely affect their status as employees because of their  
12 disabilities.

13  
14 111. The unlawful employment practices complained of in the foregoing  
15 paragraphs are continuous and ongoing.

16 **PRAYER FOR RELIEF**

17  
18 Wherefore, the Commission respectfully requests that this Court

19 A. Grant a permanent injunction enjoining Defendant CTI, its officers,  
20 successors, assigns, and all persons in active concert or participation with it, from  
21 discriminating against employees because of a disability.

22  
23 B. Order Defendant CTI to institute and carry out policies, practices, and  
24 programs which provide equal employment opportunities for qualified individuals with  
25 disabilities, and which eradicate the effects of its past and present unlawful employment  
26 practices.

27  
28 C. Order Defendant CTI to make whole Ms. Barr, Mr. Pruett, and other

1 aggrieved individuals for whom the EEOC seeks relief by providing appropriate  
2 backpay and lost benefits with prejudgment interest, in amounts to be determined at trial,  
3 and other affirmative relief necessary to eradicate the effects of its unlawful employment  
4 practices, including but not limited to the reinstatement of Ms. Barr, Mr. Pruett, and  
5 other aggrieved individuals, or front pay in lieu thereof.  
6

7 D. Order Defendant CTI to make whole Ms. Barr, Mr. Pruett, and other  
8 aggrieved individuals for whom the EEOC seeks relief, by providing compensation for  
9 past and future pecuniary losses resulting from the unlawful employment practices  
10 described in the paragraphs above, including but not limited to relocation expenses, job  
11 search expenses, and medical expenses, in amounts to be determined at trial.  
12

13  
14 E. Order Defendant CTI to make whole Ms. Barr, Mr. Pruett, and other  
15 aggrieved individuals for whom the EEOC seeks relief by providing compensation for  
16 past and future nonpecuniary losses resulting from the unlawful employment practices  
17 described in the paragraphs above, including but not limited to emotional pain, suffering,  
18 inconvenience, loss of enjoyment of life, humiliation, loss of credit standing, and stress,  
19 in amounts to be determined at trial.  
20

21  
22 E. Order Defendant CTI to pay Ms. Barr, Mr. Pruett, and other aggrieved  
23 individuals for whom the EEOC seeks relief, punitive damages for its malicious or  
24 reckless conduct described in the paragraphs above, in amounts to be determined at trial.  
25

26 F. Grant such further relief as this Court deems necessary and proper.

27 G. Award the EEOC its costs of this action.  
28



**JURY TRIAL DEMANDED**

The Commission requests a jury trial on all questions of fact raised by its complaint, except the claims for disparate impact.

RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of September, 2013.

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Regional Attorney

ANDREA G. BARAN  
Supervisory Trial Attorney

/s/Richard I. Sexton  
RICHARD I. SEXTON  
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